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3 BILL NO. S-78-06-23

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SPECIAL ORDINANCE NO. S- 105-78

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AN ORDINANCE approving an Agreement with  
Le Val D'or Development, Inc., for con-  
struction of a sanitary sewer.

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NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF  
FORT WAYNE, INDIANA:

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SECTION 1. That the Agreement dated June 5, 1978, between the  
City of Fort Wayne, by and through its Mayor and the Board of Public Works  
and Le Val D'or Development, for:

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SANITARY SEWER - LE VAL D'OR - SECTION 1

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Line "A" - Beginning at a proposed manhole #1 to be con-  
structed over an existing 18" sanitary sewer,  
said manhole to be situated on the East pro-  
perty line of Lot #9 in LE VAL D'OR, SECTION 1,  
approximately 110 feet North of the right-of-  
way of Dorsay Court; thence Southerly along  
the East property line of said Lot #9, a dis-  
tance of 110 feet to proposed manhole #2, said  
manhole being situated on the corner of Lots  
#8 and #9 in LE VAL D'OR, SECTION 1, and the  
right-of-way of Dorsay Court; thence Southerly,  
a distance of 290 feet to proposed manhole #3,  
said manhole being situated on the corner of  
Lots #4 and #5 in LE VAL D'OR, SECTION 1, and  
the right-of-way of Dorsay Court; thence South-  
erly, along the right-of-way of Dorsay Court,  
150 feet terminating at a proposed manhole #5,  
said manhole being situated 25 (plus or minus)  
feet North and 20 (plus or minus) feet East of  
the centerline intersection of Monet Drive and  
Dorsay Court in LE VAL D'OR, SECTION 1.

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Line "B" - Beginning at a proposed manhole #5, said man-  
hole being situated on the North right-of-way  
of Monet Drive approximately 15 feet East of  
the Southwest corner of Lot #2 in LE VAL D'OR,  
SECTION 1; thence Westerly, along the North  
right-of-way of Monet Drive, a distance of 185  
feet to proposed manhole #4; thence Southwesterly,  
along the North right-of-way of Monet Drive, a  
distance of 340 feet to proposed manhole #7;  
thence Southwesterly, a distance of 180 feet to  
proposed manhole #8; thence Westerly, 350 feet  
terminating at a proposed manhole #9, said man-  
hole being situated 100 feet West of the South-  
west corner of Lot #33 in LE VAL D'OR, SECTION 1,  
and on the future North right-of-way of Monet  
Drive.

Line "C" - Beginning at a proposed manhole #5, said man-  
hole being situated on the North right-of-way  
of Monet Drive approximately 15 feet East of  
the Southwest corner of Lot #2 in LE VAL D'OR,

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SECTION 1; thence Southerly, along the West right-of-way of Monet Court, 370 feet terminating at a proposed manhole #6, said manhole being situated on the right-of-way of Monet Court approximately 25 feet West of the Northeast corner of Lot #47 in LE VAL D'OR, SECTION 1.

7 Line "D" - Beginning at an existing manhole #10 over an  
8 existing 18" sanitary sewer, said manhole be-  
9 ing situated 110 (plus or minus) feet East  
10 and 25 (plus or minus) feet South of the North-  
11 west corner of LE VAL D'OR, SECTION 1; thence  
12 Southerly, a distance of 300 feet, to pro-  
13 posed manhole #11, said manhole being situated  
14 on the corner of Lots #25 and #26 in LE VAL D'OR,  
15 SECTION 1, and the right-of-way of Champagne  
Court; thence Southeasterly, along the North  
right-of-way of Champagne Court, a distance of  
290 feet to proposed manhole #12; thence South-  
erly, 170 feet terminating at a proposed man-  
hole #13, said manhole being situated on the  
East right-of-way line of Champagne Court approx-  
imately 10 feet South of the Northwest corner of  
Lot #19 in LE VAL D'OR, SECTION 1.

16 of which the developer shall pay the entire cost and expense of the con-  
17 struction of said sewer, all as more particularly set forth in said agree-  
18 ment which is on file in the Office of the Board of Public Works and is  
19 by reference incorporated herein, made a part hereof and is hereby in all  
20 things ratified, confirmed and approved.

21 SECTION 2. That this Ordinance shall be in full force and effect  
22 from and after its passage and approval by the Mayor.

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Dan R. Barnes  
Councilman

APPROVED AS TO FORM  
AND LEGALITY,

  
CITY ATTORNEY

Read the first time in full and on motion by Burns, seconded by

Moses, and duly adopted, read the second time by title and referred to the Committee on City Utilities (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATE: 6-13-78

Charles W. Westerman  
CITY CLERK

Read the third time in full and on motion by Burns, seconded by Hinga, and duly adopted, placed on its passage.

PASSED (PASSED) by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>	<u>TO-WIT:</u>
<u>TOTAL VOTES</u>	<u>9</u>				
<u>BURNS</u>	<u>X</u>				
<u>HINGA</u>	<u>X</u>				
<u>HUNTER</u>	<u>X</u>				
<u>MOSES</u>	<u>X</u>				
<u>NUCKOLS</u>	<u>X</u>				
<u>SCHMIDT, D.</u>	<u>X</u>				
<u>SCHMIDT, V.</u>	<u>X</u>				
<u>STIER</u>	<u>X</u>				
<u>TALARICO</u>	<u>X</u>				

DATE: 6-27-78

Charles W. Westerman  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as  
(ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE

(RESOLUTION) No. 8-105-78 on the 27th day of June, 1978.  
ATTEST: (SEAL) Charles W. Westerman Samuel J. Talarico

CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 28th  
day of June, 1978 at the hour of 11:00 o'clock A.M., E.S.T.

Charles W. Westerman  
CITY CLERK

Approved and signed by me this 29 day of June, 1978,  
at the hour of 8:30 o'clock A.M., E.S.T.

Ronald E. Armstrong  
MAYOR

Bill No. S-78-06-23

REPORT OF THE COMMITTEE ON CITY UTILITIES

We, your Committee on City Utilities to whom was referred an Ordinance  
approving an Agreement with Le Val D'or Development, Inc., for  
construction of a sanitary sewer

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance DO PASS.

PAUL M. BURNS - CHAIRMAN

JAMES S. STIER - VICE CHAIRMAN

VIVIAN G. SCHMIDT

WINFIELD C. MOSES, JR.

FREDRICK R. HUNTER

*Paul M. Burns*  
*James S. Stier*

*Vivian G. Schmidt*

*Winfield C. Moses, Jr.*  
*Fredrick R. Hunter*

*6/27-78*  
CONCURRED IN

DATE 6/27/78 CHARLES W. WESTERMAN, CITY CLERK

## Memorandum

To the BOARD OF PUBLIC WORKS

Date 5/18/78

From PHILIP R. BOLLER

**Subject** LE VAL D'OR - SECTION 1

**COPIES TO:**

Please find attached for your and councilmanic approval an Agreement for Sewer Extension for the above captioned project. The developer will submit a Sewer Construction Permit with bond in the near future. However, in the interim he wishes to take care of this phase of the project's paper work.

If this meets with your approval please execute and return to this department for recording.

Once you have approved please issue a Board Order.

## NOTED

H.P.W.  
 E.H.L.  
 M.G.S.

Date

Philip R. Boller, P.E.

### Chief Water Pollution Control Engineer

PBB/DF/jw

Att

BOARD OF PUBLIC WORKS

MAY 19 1978

A G R E E M E N T  
F O R  
S E W E R   E X T E N S I O N

THIS AGREEMENT made in triplicate this 18 day of May,  
1978, by and between LE VAL D'OR DEVELOPMENT, INC., hereinafter  
referred to as "Developer" and the CITY OF FORT WAYNE, INDIANA, an  
Indiana Municipal Corporation, hereinafter referred to as "City",  
WITNESSETH:

*5*  
*Jenne*

WHEREAS, the Developer desires to construct a sanitary sewer described  
as follows:

LE VAL D'OR - SECTION 1

Line "A" - Beginning at a proposed manhole #1 to be constructed  
over an existing 18" sanitary sewer, said manhole to  
be situated on the East property line of Lot #9 in  
LE VAL D'OR, SECTION 1, approximately 110 feet North  
of the right-of-way of Dorsay Court; thence Southerly  
along the East property line of said Lot #9, a  
distance of 110 feet to proposed manhole #2, said  
manhole being situated on the corner of Lots #8 and  
#9 in LE VAL D'OR, SECTION 1, and the right-of-way  
of Dorsay Court; thence Southerly, a distance of 290  
feet to proposed manhole #3, said manhole being  
situated on the corner of Lots #4 and #5 in LE VAL D'OR,  
SECTION 1, and the right-of-way of Dorsay Court; thence  
Southerly, along the right-of-way of Dorsay Court, 150  
feet terminating at a proposed manhole #5, said manhole  
being situated 25 (plus or minus) feet North and 20  
(plus or minus) feet East of the centerline intersection  
of Monet Drive and Dorsay Court in LE VAL D'OR,  
SECTION 1.

Line "B" - Beginning at a proposed manhole #5, said manhole being  
situated on the North right-of-way of Monet Drive  
approximately 15 feet East of the Southwest corner of  
Lot #2 in LE VAL D'OR, SECTION 1; thence Westerly,  
along the North right-of-way of Monet Drive, a distance  
of 185 feet to proposed manhole #4; thence Southwesterly,  
along the North right-of-way of Monet Drive, a distance  
of 340 feet to proposed manhole #7; thence Southwesterly,  
a distance of 180 feet to proposed manhole #8; thence  
Westerly, 350 feet terminating at a proposed manhole #9,  
said manhole being situated 100 feet West of the South-  
west corner of Lot #33 in LE VAL D'OR, SECTION 1, and  
on the future North right-of-way of Monet Drive.

Line "C" - Beginning at a proposed manhole #5, said manhole being  
situated on the North right-of-way of Monet Drive  
approximately 15 feet East of the Southwest corner of

Lot #2 in LE VAL D'OR, SECTION 1; thence Southerly, along the West right-of-way of Monet Court, 370 feet terminating at a proposed manhole #6, said manhole being situated on the right-of-way of Monet Court approximately 25 feet West of the Northeast corner of Lot #47 in LE VAL D'OR, SECTION 1.

Line "D" - Beginning at an existing manhole #10 over an existing 18" sanitary sewer, said manhole being situated 110 (plus or minus) feet East and 25 (plus or minus) feet South of the Northwest corner of LE VAL D'OR, SECTION 1; thence Southerly, a distance of 300 feet, to proposed manhole #11, said manhole being situated on the corner of Lots #25 and #26 in LE VAL D'OR, SECTION 1, and the right-of-way of Champagne Court; thence Southeasterly, along the North right-of-way of Champagne Court, a distance of 290 feet to proposed manhole #12; thence Southerly, 170 feet terminating at a proposed manhole #13, said manhole being situated on the East right-of-way line of Champagne Court approximately 10 feet South of the Northwest corner of Lot #19 in LE VAL D'OR, SECTION 1.

All sewers consist of 2735  $\pm$  L.F. of 8-inch E.S.C.P., ABS Plastic Pipe or A.C.P. in accordance with plans, specifications and profiles heretofore submitted to the City and now on file in the Office of the Chief Water Pollution Control Engineer of the City Utilities of the City, and known as LE VAL D'OR, SECTION 1, which plans, specifications and profiles are by reference incorporated herein and made a part hereof, which sewer will serve not only land in which the Developer has an interest, but also adjoining land areas.

WHEREAS, the entire cost of construction of said sewer is to be paid for by the Developer.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter set forth, the parties hereto agree as follows:

1. CONSTRUCTION OF SEWER.

The Developer shall cause said sewer to be constructed and located in accordance with said plans, specifications, and profiles, all approved by the City, under private contract to be let within sixty (60) days after requisite City approval. All work and materials shall be subject to inspection by City and the right of City to halt construction if there shall be noncompliance therewith. Said sewer shall not be deemed permanently connected into the sewer system of

City until final acceptance by City. Upon completion, said sewer shall become the property of City and City shall accept sewage therefrom, subject to such sewage service charges as may now or hereafter be regularly established by City, and all further maintenance thereafter shall be borne by City.

2. COST OF CONSTRUCTION.

The Developer agrees to pay the entire cost and expense of construction of said sewer, in cash, including engineering and City inspection fees, and to hold the City harmless from any liability for claims connected therewith.

3. AREA OF DEVELOPER.

Said sewer, when accepted by the City will serve the following described real estate, to be platted as LE VAL D'OR.

Part of the North Half of the Northeast Quarter of Section 34, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit:

Beginning on the North line of said Northeast Quarter at a point situated 350.0 feet West of the Northeast corner of said Northeast Quarter; thence West, on and along said North line, a distance of 2221.37 feet to the Northwest corner of said Northeast Quarter; thence Southerly, by a deflection angle left of  $90^{\circ}-17'$ , on and along the West line of said Northeast Quarter, a distance of 1022.55 feet; thence Easterly, by a deflection angle left of  $89^{\circ}-44'-50''$  and parallel to the South line of said North Half, a distance of 2570.59 feet to the East line of said Northeast Quarter; thence Northerly by a deflection angle left of  $90^{\circ}-12'-34''$ , on and along said East line, being also the centerline of Auburn Road, a distance of 640.2 feet to a point situated 380.8 feet Southerly from the Northeast corner of said Northeast Quarter; thence West, by a deflection angle left of  $89^{\circ}-45'-36''$  and parallel to the North line of said Northeast Quarter, a distance of 350.0 feet; thence Northerly, by a deflection angle right of  $89^{\circ}-45'-36''$  and parallel to said East line, a distance of 380.8 feet to the point of beginning, containing 57.250 acres of land, subject to legal right-of-way for Auburn Road and further subject to the following easements:

1. An electric utility easement over the Westerly 10 feet thereof.
2. A sanitary sewer easement, 20 feet in width, as recorded in Document # 76-13426.
3. A gas line easement, 12 feet in width, lying West of and adjacent to the existing West right-of-way line of Auburn Road.

OF WHICH now is being platted LE VAL D'OR, SECTION 1, containing 24.196 acres more particularly described as follows:

Part of the North Half of the Northeast Quarter of Section 34, Township 32 North, Range 12 East, Allen County, Indiana, more particularly described as follows, to wit:

Beginning on the North line of said Northeast Quarter at a point situated 350.0 feet, N 90°-00' W (assumed bearing and is used as the basis for the bearings in this description) from the Northeast corner of said Northeast Quarter; thence N 90°-00' W, on and along said North line, a distance of 922.98 feet; thence S 00°-00' W, a distance of 359.18 feet; thence S 40°-00' E, a distance of 380.0 feet; thence S 10°-00' W, a distance of 160.0 feet; thence S 15°-56'-40" W, a distance of 50.27 feet; thence S 01°-52'-30" W, a distance of 165.47 feet to a point situated 300.0 feet North of the South line of said North Half; thence N 89°-58'-10" E and parallel to said South line, a distance of 1080.0 feet to the East line of said Northeast Quarter at a point situated 300.0 feet, N 00°-14'-24" W from the Southeast corner of said North Half; thence N 00°-14'-24" W, on and along said East line, being also the centerline of Auburn Road, a distance of 640.2 feet to a point situated 380.8 feet, S 00°-14'-24" E from the Northeast corner of said Northeast Quarter; thence N 90°-00' W and parallel to the North line of said Northeast Quarter, a distance of 350.0 feet; thence N 00°-14'-24" W and parallel to said East line, a distance of 380.0 feet to the point of beginning, containing 24.196 acres of land, subject to legal right-of-way for Auburn Road.

As the Developer will pay for the cost of construction of said sewer as it pertains to the above described area, no charge or assessment is made by this Agreement against the above described real estate for the construction of said sewer by the present or future owners of said real estate except only as to such standard tap-in, inspection fees and monthly sewage treatment charges as are customarily charged by the City for connections to City sewer mains and treatment of sewage therefrom.

#### 4. CHARGES AGAINST AREA.

An area connection charge of \$475.00 per acre must be paid to the City at the time of connection. This area connection charge represents the oversizing cost expended by the City for the sanitary sewer, St. Joe Interceptor, that provides service to LE VAL D'OR, SECTION 1. Also Sanitary Sewer Reimbursement monies due Macke Development Corp. by Recorded Document 77-05701.

5. BOND

This contract is subject to Developer furnishing a satisfactory Performance and Guaranty Bond for the value of the sewer which shall guarantee said sewer against defects for a period of one (1) year from the date of final acceptance of said sewer by the City.

6. LIMITATION ON USE.

Said sewer shall be constructed for disposal of sanitary sewage only, and neither the parties hereto, their successors, or assigns or any future owner of any land serviced by said sewer, shall at any time discharge or permit to be discharged or to flow into said sanitary sewer, any water runoff caused by natural precipitation or anything other than sanitary sewage or contaminated waste.

7. WAIVER OF RIGHT TO REMONSTRATE AGAINST ANNEXATION.

The Developer, for himself, his successors in title and assigns, waives and releases any and all rights which it may now or hereafter have to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of any territory now or hereafter owned by him, as described in Article 3 herein, or hereafter served by said sewer or any extension thereof.

In further consideration and to induce City to execute and ratify this contract, said Developer, for himself, his successors and assigns, agrees by this contract to vest in City the permanent right at its discretion to annex to the City of Fort Wayne at any future time by duly authorized ordinance the said real estate described in Article 3 herein.

Developer further agrees that any deeds, contracts, or other instruments of conveyance made by the Developer, its successors or assigns, transferring or conveying any interest or title in and to any of the real estate described in Article 3 herein, shall contain the waiver and release provisions contained in this

article, which provisions shall run with the land and the acceptance of the delivery of any such instrument from the Developer, his successors and assigns by any grantee, vendee, or contract purchaser, shall be made subject to the terms of this Agreement and shall constitute an acceptance of the foregoing provisions by said grantee, vendee, or contract purchaser and their successors in title.

The Developer further agrees to record an executed copy of this contract in the Allen County Recorder's Office within ten (10) days of its adoption and approval by the Common Council of City as hereinafter provided.

Any owner or owners of land which is now, or hereafter located outside the corporate limits of City who connect into the sewer constructed hereunder shall be deemed to thereby waive his, her, their, or its right to remonstrate against or otherwise object to, interfere with or oppose any pending or future annexation by City of such land or of the territory in which it is located or of the area served by said sewer.

8. GOVERNING STATUTE.

It is the intention of the parties hereto to utilize and take advantage of and apply to this Agreement the provisions of Sections 16, 17 and 18 of Chapter 128 of the Acts of 1967 of the State of Indiana (I.C. 19-2-7-16, I.C. 19-2-7-17 and I.C. 19-2-7-18), the provisions of which Sections shall govern with respect to any matters not specifically outlined herein.

9. COUNCILMANIC APPROVAL.

It is understood and agreed that this contract is in all respects subject to approval by the Common Council of City, by duly adopted Ordinance, and if such Ordinance is not adopted within a period of ninety (90) days after execution thereof, this contract shall be null and void and of no further force and effect.

IN WITNESS WHEREOF, the parties have subscribed to this Agreement  
the day and year first above written.

LE VAL D'OR DEVELOPMENT, INC.

ATTEST:

By:

*Dr. G. M. Maldia*  
Dr. G. M. Maldia  
Corporate Secretary

By:

*Barbara A. Maldia*  
Barbara A. Maldia, President  
"DEVELOPER"

STATE OF INDIANA }  
} SS:  
COUNTY OF ALLEN }

Before me, the undersigned, a Notary Public in and for said County and State, personally appeared Barbara A. Maldia, President and Dr. G. M. Maldia, Corporate Secretary of LE VAL D'OR DEVELOPMENT, INC., who acknowledged the execution of the foregoing agreement for sewer extension as and for his voluntary act and deed for the uses and purposes therein contained.

WITNESS my hand and notarial seal this 18th day of May, 1978.

My Commission Expires:

10-11-81

*Deanna Faust*  
Deanna Faust, Notary Public

Resident of Allen County, Indiana.

CITY OF FORT WAYNE, INDIANA

By:

Robert Armstrong, Mayor

BOARD OF PUBLIC WORKS

By:

Henry P. Wehrenberg, Chairman

By:

Ethel H. LaMar, Member

By:

Max G. Scott, Member

Approved as to form and legality:

Associate City Attorney

ATTEST:

STATE OF INDIANA }  
COUNTY OF ALLEN } SS:

Before me, the undersigned, a Notary Public in and for said County and State personally appeared Robert E. Armstrong, Henry P. Wehrenberg, Ethel H. LaMar, and Max G. Scott, known to me to be the Mayor, the members of the Board of Works of the City of Fort Wayne, Indiana, respectively, and the voluntary act and deed of said City.

WITNESS my hand and notarial seal this \_\_\_\_\_ day of \_\_\_\_\_, 1978.

\_\_\_\_\_, Notary Public

My Commission Expires:

Resident of \_\_\_\_\_ County, Indiana.

This instrument prepared by: Larry J. Burke, Deputy City Attorney.

4094

TITLE OF ORDINANCE SPECIAL ORDINANCE - AGREEMENT FOR SEWER EXTENSION - LE VAL D'OR - SECTION

DEPARTMENT REQUESTING ORDINANCE BOARD OF PUBLIC WORKS

8-78-06-23

SYNOPSIS OF ORDINANCE AGREEMENT FOR SEWER EXTENSION, LE VAL D'OR - SECTION I, DORSAY COURT,

MONET DRIVE CHAMPAGNE COURT, LE VAL D'OR DEVELOPMENT, INC., DEVELOPER, FOR CONSTRUCTION  
OF SEWER TO SERVE ABOVE-DESCRIBED AREA.

(AGREEMENT FOR SEWER EXTENSION ATTACHED)

EFFECT OF PASSAGE CONSTRUCTION OF SEWER FOR LE VAL D'OR - SECTION I

EFFECT OF NON-PASSAGE INABILITY TO CONSTRUCT SEWER AS PLANNED

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS) DEVELOPER TO PAY ENTIRE COST AND EXPENSE

ASSIGNED TO COMMITTEE

EP

CJH